

CHAPTER 1224

S.B. No. 1276

AN ACT

relating to the Lavaca-Navidad River Authority, formerly known as the Jackson County Flood Control District.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subsections (a) and (b), Section 1, Chapter 186, Acts of the 50th Legislature, Regular Session, 1947, are amended to read as follows:

(a) There is hereby created and established within the State of Texas, in addition to the Districts into which the state has heretofore been divided, a Conservation and Reclamation District to be known as *the Lavaca-Navidad River Authority* [~~Jackson County Flood Control District~~], (hereinafter called the District), and consisting of that part of the State of Texas which is known as and included within the boundaries of Jackson County, Texas (the boundaries of the District being coextensive with the boundaries of Jackson County, Texas, and the District including all of the lands and other property, both real and personal, within the boundaries of said county). Such District shall be a governmental agency and body politic and corporate, with the powers of government and with the authority to exercise the rights, privileges, and functions hereinafter specified, the creation and establishment of such District being essential to the accomplishment of the purposes of Section 59 of Article XVI, Constitution of Texas, including the control, storing, preservation, and distribution of the storm and flood waters, and the waters of the rivers and streams of Jackson County and their tributaries, *inside and outside the boundaries of the District*, for domestic, municipal, flood control, irrigation, *agricultural, mining and recovery of minerals, hydroelectric power, navigation, recreation and pleasure, public parks, game preserves*, and other useful purposes, *the development of parks on lands owned or acquired by the District*, the reclamation and drainage of the overflow land of Jackson County, the conservation and development of forests, *financing of and aiding in the development of facilities located on lands owned by the District for the generation, transmission, and sale of electric power and energy inside or outside the boundaries of the District*, and to aid in the protection and promotion of navigation on the navigable waters by regulating the flood and storm waters that flow into said navigable streams. *In addition, the District may discover, develop, and produce groundwater within the boundaries of the Lavaca River Basin for use within that portion of a county located within the boundaries of the Lavaca River Basin where groundwater is discovered, developed, and produced and may coordinate and contract with groundwater conservation districts to engage in conjunctive groundwater and surface water management.*

(b) The management and control of the District shall be vested in a Board of Directors consisting of nine (9) members, who must reside within the District and shall be freehold property taxpayers and legal voters of the State of Texas. *The* [~~the~~] members of the Board of Directors shall be appointed by the Governor of Texas *with the advice and consent of* [~~and confirmed by~~] the Senate. As soon as practicable after the passage of this Act (as hereby amended), the members of the Board of Directors shall be appointed (hereinafter referred to as "First Board"). In appointing the members of the First Board, the Governor shall appoint three (3) members to serve until May 1, 1961, and until their successors are appointed and qualified, three (3) members to serve until May 1, 1963, and until their successors are appointed and qualified, and three (3) members to serve until May 1, 1965, and until their successors are appointed and qualified. Except for the First Board, the terms of office of the members of the Board of Directors shall be for six (6) years ending on May 1st, and until their successors are appointed and qualified, three (3) members to be appointed during the month of April of each odd-numbered year by the Governor to succeed the members whose terms of office shall expire on the following May 1st. If a vacancy on the Board of Directors occurs because of the resignation or death of a member, or otherwise, the Governor shall fill the same for the unexpired term by the appointment of a successor member. *Each Director* [~~Directors~~] shall qualify by taking the official oath of office and filing a good and sufficient bond with the Secretary of State in the amount of One Thousand Dollars (\$1,000.), which shall be payable to the District, conditioned upon the faithful performance of his (or her) official duties as a Director.

SECTION 2. Section 2, Chapter 186, Acts of the 50th Legislature, Regular Session, 1947, is amended to read as follows:

Sec. 2. Except as expressly limited by this Act, the District shall have and is hereby authorized to exercise all powers, rights, privileges and functions which are now, or hereafter may be, conferred by General or Special Law upon any ~~[flood-control]~~ District or Districts created pursuant to, or operating under, Section 59 of Article XVI, Constitution of Texas. Without in any way limiting the generality of the foregoing, the District shall have and is hereby authorized to exercise *the powers, rights, privileges, and functions described by Section 1 of this Act. In addition, the District has the following powers, rights, privileges, and functions:*

(a) To acquire by lease, gift, devise, purchase, condemnation, or *in any other manner provided by law and to construct, maintain, use, and operate any property or any interest in property, including real or personal property, inside or outside the boundaries of the District, necessary or convenient to the District's powers, rights, privileges, and functions under this Act* ~~[otherwise, lands and rights and interests therein and any other character of property necessary or useful for any of the purposes provided in Section 1(a) hereof].~~

(b) To lease, sell, trade, or otherwise dispose of *any property or any interest in property, including real or personal property, [land or other property or rights therein]* when the same are no longer needed for *carrying on the business of the District* ~~[such purposes].~~

(c) To appoint a manager and such other officers, agents, and employees, and to prescribe their duties and fix their compensation (including an engineer or engineers and *legal counsel*).

(d) To authorize its officers, employees, or agents to go upon any lands lying within the District for the purpose of making surveys and examining such lands in connection with any District plans or projects and for any other lawful purpose within the scope of its authority.

(e) To devise plans and construct works to lessen and control floods or to reclaim lands in the District; to prevent the deposit of silt in navigable streams; to remove obstructions, natural or artificial, from streams and water courses; to regulate the flow of surface and flood waters; to provide drainage; and to accomplish any other purpose within the scope of its authority.

(f) To borrow money for any of the purposes, consistent with the Constitution, provided by this Act or by the General Laws (and without limitation of the generality of the foregoing, to borrow money and accept grants from the United States of America, *the State of Texas*, or ~~[from]~~ any corporation or agency created or designated by the United States of America *or the State of Texas*, and in connection with any such loan or grant to enter into such agreements as the United States of America, *the State of Texas*, or such corporations or agencies may require), and to make and issue its *notes and [negotiable] bonds (tax bonds or notes, revenue bonds or notes, and/or combination tax-revenue bonds or notes)* for such borrowed money in the manner and to the extent provided herein.

(g) To cooperate with, or to contract with, any agency or political subdivision of the state, or any city or town within the boundaries of the District in relation to surveys, the acquisition of land or right-of-ways, the construction or maintenance of projects or parts thereof or the financing of the same in connection with any matter within the scope of this Act.

(h) To sue and be sued in its corporate name.

(i) To adopt, use, and alter a corporate seal.

(j) To make bylaws, rules, and regulations for the management and regulation of its affairs.

(k) To make contracts and execute instruments necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred upon it by this Act *or by general law*.

(l) To do any and all other acts or things necessary or convenient ~~[proper]~~ *to the exercise of all of the powers, rights, privileges, authority, or functions provided by the Constitution of Texas, this Act, or other applicable law* ~~[carry into effect any of the foregoing powers].~~

(m) In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such

necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District.

(n) In no event shall the power of eminent domain be exercised by said District beyond the limits of Jackson County.

(o) *To own, construct, operate, and maintain facilities relating to:*

- (1) *water supply and treatment;*
- (2) *wastewater treatment and distribution;*
- (3) *solid waste;*
- (4) *electric power generation, to the extent authorized by Section 1(a) of this Act;*
- (5) *flood monitoring, warning, and control;*
- (6) *water quality protection, including non-point source pollution control measures;*
- (7) *emergency communication support to other political subdivisions;*
- (8) *aquatic weed control and development;*
- (9) *parks and recreation; and*
- (10) *monitoring and collecting data to support the facilities listed in Subdivisions (1)–(9) of this subsection.*

(p) *To effectively and efficiently meet current and future water supply demands inside or outside the boundaries of the District, the District may acquire, construct, develop, operate, and maintain desalination projects inside or outside the boundaries of the District. In relation to the development and operation of desalination projects, the District may:*

- (1) *own and operate a facility that is ancillary to a desalination project, including an electric power generation facility, to the extent authorized by Section 1(a) of this Act;*
- (2) *incur debt and receive funding through grants; and*
- (3) *form development corporations that may be funded by the Texas Water Development Board.*

SECTION 3. Section 3, Chapter 186, Acts of the 50th Legislature, Regular Session, 1947, is amended to read as follows:

Sec. 3. The Board of Directors shall cause to be kept complete and accurate records and accounts conforming to approved methods of bookkeeping, and shall preserve their minutes, contracts, records, notices, accounts, receipts, and records of all kinds in a fireproof vault or safe. A regular office shall be established and maintained for the conduct of District business within the District.

Each Director shall receive *fees of office not to exceed \$100 a day for each day the Director performs the duties of a Director, or as state law otherwise authorizes, [for his services Ten Dollars (\$10.) per day for each day served]* plus actual traveling expenses, provided that such compensation and expenses are approved by a vote of the Board, and provided further, that no Director shall receive more than \$6,000 [~~Six Hundred Dollars (\$600.)~~] per year *or as state law otherwise authorizes for such fees of office [per diem services]*. Each Director shall file with the General Manager [~~Secretary~~] a statement showing the amount due him each month or as soon thereafter as practicable, before a check shall be issued therefor.

No Director, engineer, officer, or employee of the District, either for himself or as agent for anyone else, shall benefit directly or indirectly by reason of any sale, purchase, or contract entered into by the District [~~Board~~]. If any such person shall directly or indirectly become interested in any such sale, purchase, or contract, he shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine in any sum of not to exceed One Thousand Dollars (\$1,000.) or by confinement in the county jail for not less than six (6) months nor more than one (1) year, or by both such fine and imprisonment.

All bonds required to be given by officers and employees of the District shall be executed by a surety company authorized to do business in the State of Texas as surety thereon, and the District shall be authorized to pay the premium on such bonds.

SECTION 4. Subsection (a), Section 6, Chapter 186, Acts of the 50th Legislature, Regular Session, 1947, is amended to read as follows:

Sec. 6. (a) For the purpose of providing funds for any of the purposes provided by this Act or any other laws relating to ~~[flood control]~~ districts *created or operating under Section 59 of Article XVI of the Constitution of Texas*, the Board of Directors shall have the power from time to time to issue negotiable bonds for and on behalf of the District, which bonds may be secured by any one of the following methods:

(1) Solely by a pledge of and payable from the net revenues derived from the operation of all or a designated part of the improvements and facilities of the District then in existence or to be constructed or acquired, with the duty on the Board of Directors to charge and collect fees, tolls, and charges, so long as the bonds are outstanding, sufficient to pay all maintenance and operation expenses of the improvements and facilities (the income of which is pledged), the interest on such bonds as it accrues, the principal of such bonds as it matures, and to make any and all other payments as may be prescribed in the bond order or resolution; or

(2) By a pledge of and payable from an ad valorem tax upon all taxable property within the District under Section 59 of Article XVI of the Constitution of Texas, with the duty on the Board of Directors each year while the bonds, or any part of them, are outstanding to levy, and cause to be assessed and collected, a tax sufficient to pay the interest on such bonds as it accrues and the principal of such bonds as it matures; or

(3) By a combination of the methods prescribed under (1) and (2) above, wherein the bonds are supported and secured by an ad valorem tax, with the duty on the Board of Directors to charge and collect fees, tolls, and charges, so long as the bonds are outstanding, so the (in the manner prescribed in the bond order or resolution) amount of tax to be collected from time to time may be reduced or abated to the extent that the revenues from the operation of said improvements and facilities (the income of which is pledged) are sufficient to meet the requirements for maintenance and operation of said improvements and facilities and to provide funds for the bonds as prescribed in said bond order or resolution.

“Net revenues” as used herein shall mean the gross revenues derived from the operation of those improvements and facilities of the District the income of which is pledged to the payment of the bonds less the reasonable expense of maintaining and operating said improvements and facilities, and said maintenance and operation expenses shall include, among other things, necessary repair, upkeep, and insurance of said improvements and facilities.

In the resolution or order adopted by the Board of Directors authorizing the issuance of bonds payable in whole or in part from net revenues, the Board may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund, reserve fund, and other funds, and may make such additional covenants with respect to the bonds and the pledged revenues and the operation, maintenance, and upkeep of those improvements and facilities (the income of which is pledged), including provision for the leasing of all or a part of said improvements and facilities and the use or pledge of moneys derived from leases thereof, as it may deem appropriate. Said resolution or order may also prohibit the further issuance of bonds or other obligations payable from the pledged net revenues, or may reserve the right to issue additional bonds to be secured by a pledge of and payable from said net revenues on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued, subject to such conditions as are set forth in said resolution or order. Such resolution or order may contain such other provisions and covenants, as the Board of Directors shall determine, not prohibited by the Constitution of Texas or by this Act, and the Board may adopt and cause to be executed any other proceedings or instruments necessary and/or convenient in the issuance of said bonds.

SECTION 5. Chapter 186, Acts of the 50th Legislature, Regular Session, 1947, is amended by adding Section 8A to read as follows:

Sec. 8A. The Board of Directors, without an election, may borrow money on negotiable or nonnegotiable notes of the District to be paid solely from the revenues of the District derived from the ownership of all or a designated part of the District's works, plant, improvements, facilities, equipment, or water rights, after deduction of the reasonable cost of maintaining and operating the facilities. The District may not pay any part of an obligation from taxes levied or collected by the District. The Board of Directors may designate the notes as first

lien or subordinate lien notes. An obligation shall be a charge on the revenues pledged for the payment of the obligation, not a charge on the property of the District or on the taxes levied or collected by the District.

SECTION 6. Section 9, Chapter 186, Acts of the 50th Legislature, Regular Session, 1947, is amended to read as follows:

Sec. 9. All maintenance *tax* elections shall be called and held as is provided in Section 6(b) of this Act relating to elections for bonds payable in whole or in part from taxes, and the following shall appear on the ballot in such maintenance tax elections:

“For maintenance tax”; and the contrary thereof.

This being a county-wide District, the regular voting or election precincts established by the Commissioners Court of Jackson County for county-wide elections shall be the voting or election precincts for all elections called and held under the provisions of this Act. Except as modified herein, the General Election Laws of the State of Texas shall apply to and govern all elections called and held under the provisions hereof.

SECTION 7. Section 10a, Chapter 186, Acts of the 50th Legislature, Regular Session, 1947, is amended to read as follows:

Sec. 10a. The Board of Directors may contract as provided by *Chapter 791, Government Code*, [~~the Interlocal Cooperation Act (Article 4413(32e), Vernon's Texas Civil Statutes)~~] with the Board of Directors of the Jackson County Appraisal District for the performance of duties relating to assessment or collection of taxes on behalf of the Lavaca-Navidad River Authority. The Board of Directors may contract with any other political subdivision of this state having authority to assess or collect taxes in Jackson County, either now existing or created in the future, for the assessment or collection of taxes on behalf of the Lavaca-Navidad River Authority.

SECTION 8. Section 12, Chapter 186, Acts of the 50th Legislature, Regular Session, 1947, is amended to read as follows:

Sec. 12. *Lavaca-Navidad River Authority* [~~Jackson County Flood Control District~~] heretofore created is in all things validated, and any and all acts relating to the District heretofore performed or done by said District or its governing body or any other officials of the State or of Jackson County are in all things validated.

SECTION 9. The following sections are repealed:

(1) Section 1(a), Chapter 186, Acts of the 50th Legislature, Regular Session, 1947, as added by Chapter 417, Acts of the 61st Legislature, Regular Session, 1969; and

(2) Sections 11 and 11a, Chapter 186, Acts of the 50th Legislature, Regular Session, 1947.

SECTION 10. This Act takes effect September 1, 2003.

Passed the Senate on May 1, 2003: Yeas 31, Nays 0; the Senate concurred in House amendment on May 30, 2003, by a viva-voce vote; passed the House, with amendment, on May 28, 2003, by a non-record vote.

Approved June 20, 2003.

Effective September 1, 2003.

CHAPTER 1225

S.B. No. 1303

AN ACT

relating to certain employment matters affecting a county auditor, assistant auditor, court reporter, or sheriff department personnel.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subsection (c), Section 152.905, Local Government Code, is amended to read as follows: